IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DISTRICT

TETYANA NAZARUK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:06-cv-00242
	)	
eBAY, Inc. and ACE COINS,	)	The Honorable Dale A. Kimball
	)	
Defendants.	)	

MOTION TO DISMISS

COMES NOW the Defendant, Ace Coins, by and through its attorney, Donovan S. Robertson, and for its Motion to Dismiss pursuant to Rules 12(b)(6), and 12 (b)(5), of the Federal Rules of civil Procedure, states to the Court as follows:

1. Plaintiff has filed a claim against Ace Coins alleging claims under 42 U.S.C. §1983 and §1985.

2. Plaintiff's claim under §1983 is defective under §1983 in that Ace Coins is not a state actor, nor does the Compliant demonstrate that Ace Coins acted under color of State Law.

3. Plaintiff's claim under §1985 is likewise defective in that it fails to allege that Ace Coins was motivated by racial animus, or that Ace Coins violated plaintiff's right to be free from involuntary servitude or her right to interstate travel.

4. Defendant further alleges that service of process in this matter was insufficient in that Ace Coins received a copy of the summons and complaint by certified mail, only, which method of service is not allowed under Illinois Law.

Ace Coins, Defendant

By: /s/ Donovan S. Robertson
Donovan S. Robertson
Attorney for Defendant

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on JULY 28, 2006.

BY: CM/ECF